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BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation )  
Against: )

No. 06-98-90848

AUGUSTO ROJAS, M.D. )  
13624 Hawthorne Boulevard, #201 )  
Hawthorne, California 90250 )

OAH No. L-1999050478

**DECISION**

Physician and Surgeon's )  
Certificate No. A 41262 )  
Physician Assistant Supervisor's )  
Approval No. SA 24462, )


Respondent. )

The attached Stipulated Settlement and Disciplinary  
Order in Case No. 06-98-90848, OAH No. L-1999050478, is hereby  
adopted by the Division of Medical Quality, Medical Board of  
California, Department of Consumer Affairs, State of California,  
as its Decision in the above-entitled matter.

This Decision shall become effective at 5:00 p.m. on  
January 8, 2001.

IT IS SO ORDERED on December 7, 2000.

DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA

  
Ira Lubell, M.D., Chair  
Panel A

1 BILL LOCKYER, Attorney General  
of the State of California  
2 DIANE M. L. TAN, State Bar No. 86571.  
Deputy Attorney General  
3 California Department of Justice  
300 South Spring Street, Suite 1702  
4 Los Angeles, California 90013  
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6 Attorneys for Complainant  
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8

9 **BEFORE THE**  
10 **DIVISION OF MEDICAL QUALITY**  
11 **MEDICAL BOARD OF CALIFORNIA**  
12 **DEPARTMENT OF CONSUMER AFFAIRS**  
13 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation ) No. 06-98-90848  
Against: )  
13 ) OAH No. L-1999050478  
14 **AUGUSTO ROJAS, M.D.** )  
13624 Hawthorne Boulevard, #201 )  
Hawthorne, California 90250 )  
15 ) **STIPULATED SETTLEMENT**  
Physician and Surgeon's ) **AND DISCIPLINARY ORDER**  
16 Certificate No. A 41262 )  
Physician Assistant Supervisor's )  
17 Approval No. SA 24462, )  
Respondent. )  
18  
19

20 **IT IS HEREBY STIPULATED AND AGREED** by and between the  
21 parties in the above-entitled proceedings that the following  
22 matters are true:

23 1. An Accusation was filed against Augusto Rojas,  
24 M.D. (hereinafter referred to as "respondent"), in Case No.  
25 06-98-90848, with the Division of Medical Quality (hereinafter  
26 referred to as "the Division") of the Medical Board of  
27 California, Department of Consumer Affairs, State of California,

1 on February 11, 1999. This matter is currently pending against  
2 respondent.

3           2. The Accusation and all statutorily required  
4 documents were duly served on respondent on February 11, 1999.  
5 Respondent's counsel filed a Notice of Defense for respondent on  
6 or about February 19, 1999. A copy of the Accusation is attached  
7 hereto as "Exhibit 1" and hereby incorporated by reference as if  
8 fully set forth herein.

9           3. Complainant, Ron Joseph, is the Executive Director  
10 of the Medical Board of California (hereinafter referred to as  
11 "the Board") and has brought this action solely in his official  
12 capacity. Complainant is represented in this matter by Bill  
13 Lockyer, Attorney General of the State of California, by and  
14 through Diane M. L. Tan, Deputy Attorney General.

15           4. Respondent, Augusto Rojas, M.D., is represented in  
16 this matter by Robert M. Silverman and George G. Braunstein,  
17 Attorneys at Law, 1999 Avenue of the Stars, Fifteenth Floor,  
18 Los Angeles, California 90067-6045.

19           5. Respondent has fully read and discussed with his  
20 counsel the charges and allegations contained in the Accusation  
21 in Case No. 06-98-90848. Respondent has been fully advised  
22 regarding his legal rights and the effects of this Stipulated  
23 Settlement and Disciplinary Order.

24           6. On October 9, 1984, respondent was issued Physician  
25 and Surgeon's Certificate No. A 41262 by the Board. At all times  
26 relevant herein, that license has been valid.

27           7. On June 1, 1995, respondent was issued Physician

1 Assistant Supervisor's Approval No. SA 24462. At all times  
2 relevant herein, that approval to supervise physician assistants  
3 has been valid.

4 8. Respondent fully understands the charges alleged in  
5 the Accusation and that those charges and allegations, if proven  
6 at a hearing, constitute causes for taking disciplinary action  
7 against his Physician and Surgeon's Certificate and Physician  
8 Assistant Supervisor's Approval. Respondent has consulted with  
9 his counsel regarding the effects of entering into this  
10 Stipulated Settlement and Disciplinary Order. Respondent is  
11 fully aware of his right to a hearing on the charges contained in  
12 the Accusation; his right to consult with and be represented by  
13 counsel at his own expense; his right to the issuance of  
14 subpoenas to compel the attendance of witnesses and the  
15 production of books, documents, or other things in his defense  
16 and as proof of mitigation; his right to testify and present  
17 relevant evidence; his right to confront and cross-examine  
18 witnesses testifying against him; his right to reconsideration  
19 and appeal; and any and all other rights which may be accorded  
20 him under the California Administrative Procedure Act (Gov. Code,  
21 §§ 11340 et seq., 11370 et seq., 11400 et seq., and 11500 et  
22 seq.) and other applicable laws.

23 Respondent hereby knowingly, voluntarily, and  
24 irrevocably waives and gives up each and every one of these  
25 rights.

26 9. Respondent admits that he was convicted of the  
27 crimes of mail fraud and false statement in a tax return in

1 federal court in November 1997; that such conviction constitutes  
2 a violation of sections 490, 2234, subdivision (a) and 2236 of  
3 the Business and Professions Code as alleged in the Accusation in  
4 Case No. 06-98-90848; and that such conduct constitutes  
5 sufficient cause to subject his Physician and Surgeon's  
6 Certificate and Physician Assistant Supervisor's Approval to  
7 disciplinary action. Respondent agrees to be bound by the  
8 Division's Disciplinary Order as set forth below.

9           10. Based upon the matters stipulated herein, the  
10 parties agree that the Division may, without further notice or  
11 formal proceedings, issue and enter the following Disciplinary  
12 Order:

13                           **DISCIPLINARY ORDER**

14           **IT IS HEREBY ORDERED** that Physician and Surgeon's  
15 Certificate Number A 41262 and Physician Assistant Supervisor's  
16 Approval No. SA 24462 issued to Respondent Augusto Rojas, M.D.,  
17 are revoked. However, the revocation of respondent's Physician  
18 and Surgeon's Certificate and Physician Assistant Supervisor's  
19 Approval are stayed and respondent is placed on probation for  
20 five (5) years on the following terms and conditions.

21           Within fifteen (15) days from the effective date of the  
22 Division of Medical Quality's Decision in this matter  
23 (hereinafter referred to as "the Division's Decision"),  
24 respondent shall provide the Division or its designee with  
25 written proof of service that a true copy of the Division's  
26 decision has been served by respondent on the Chief of Staff or  
27 the Chief Executive Officer at every hospital where privileges or

1 membership are extended to respondent or where respondent is  
2 employed to practice medicine and on the Chief Executive Officer  
3 at every insurance carrier where malpractice insurance coverage  
4 is extended to respondent.

5 (1) SUSPENSION. As part of probation, respondent is  
6 suspended from the practice of medicine for thirty (30) days.  
7 Respondent shall be suspended from the practice of medicine for  
8 thirty (30) consecutive days beginning on the sixteenth (16<sup>th</sup>)  
9 day after the effective date of the Division's Decision.

10 (2) ETHICS COURSE. Within sixty (60) days from the  
11 effective date of the Division's Decision, respondent shall  
12 enroll in a course in Ethics that has been approved in advance by  
13 the Division or its designee, and shall successfully complete  
14 this probationary condition during the first year of probation.

15 (3) EDUCATION COURSE. Within ninety (90) days from  
16 the effective date of the Division's Decision, respondent shall  
17 submit to the Division or its designee for its prior approval an  
18 educational program or course to be designated by the Division,  
19 which shall not be less than 20 hours per year during the first  
20 three years of probation. This program shall be in addition to  
21 the Continuing Medical Education requirements for re-licensure.

22 Following the completion of each course, the Division  
23 or its designee may administer an examination to test  
24 respondent's knowledge of the course. Respondent shall provide  
25 proof of attendance for 45 hours of continuing medical education  
26 of which 20 hours are required for compliance with this condition  
27 and each course must be approved in advance by the Division or

1 its designee.

2 (4) MONITORING OF BILLING PRACTICES. Within thirty  
3 (30) days from the effective date of the Division's Decision,  
4 respondent shall submit to the Division or its designee for its  
5 prior approval, the name and qualifications of one or more  
6 licensed physicians and surgeons whose licenses are valid and not  
7 subject to any disciplinary action and have agreed to serve as  
8 respondent's monitor of his billing practices. The billing  
9 practice monitor also shall have no prior or current business or  
10 personal relationship with respondent.

11 The billing practice monitor shall be involved in the  
12 same field of practice in which respondent is involved, shall  
13 have fully read the Accusation and the Division's Decision,  
14 including the Stipulated Settlement and Disciplinary Order in  
15 this matter, and fully understand his or her role as respondent's  
16 billing practice monitor. Within that 30-day period, the  
17 practice monitor shall submit to the Division or its designee a  
18 plan in which respondent's billing practices shall be monitored.  
19 That plan must be approved by the Division or its designee and  
20 shall be subject to any changes or modifications which the  
21 Division or its designee deems necessary.

22 The monitor shall provide periodic written reports to  
23 the Division or its designee providing an evaluation of  
24 respondent's performance, indicating whether respondent's billing  
25 practices are within the standards of the practice of medicine  
26 with regard to billing for medical services rendered, and  
27 providing any other necessary information requested by the

1 Division or its designee. It shall be respondent's  
2 responsibility to ensure that the monitor files the periodic  
3 written reports with the Division or its designee.

4 Respondent shall provide access to the monitor of  
5 respondent's patient records and such monitor shall be permitted  
6 to make direct contact with any patients treated or cared for by  
7 respondent. Respondent shall execute a release authorizing the  
8 monitor to provide to the Division or its designee any relevant  
9 information that it may request.

10 Respondent shall notify all current and potential  
11 patients of any term or condition of probation which will affect  
12 their treatment or the confidentiality of their records. That  
13 notification shall be signed and dated by each patient prior to  
14 the commencement or continuation of any examination or treatment  
15 of each patient by respondent and a copy of such notification  
16 shall be maintained in each patient's files. The notifications  
17 signed by respondent's patients shall be subject to inspection  
18 and copying by the Division or its designee at any time during  
19 the period of probation.

20 If the monitor resigns or is no longer available,  
21 respondent shall within fifteen (15) days of such resignation or  
22 unavailability, submit a request to the Division or its designee  
23 to have a new monitor appointed through nomination by respondent  
24 and approval by the Division or its designee.

25 Respondent shall pay for all monitoring costs.

26 (5) COMMUNITY SERVICES--FREE SERVICES. Within sixty  
27 (60) days from the effective date of the Division's Decision,



1 respondent shall submit to the Division or its designee for its  
2 prior approval a community service program in which respondent  
3 shall provide free medical or nonmedical community services.  
4 Respondent shall provide such services on a regular basis to a  
5 community or charitable facility or agency for at least nine (9)  
6 hours per month during the first year of probation and eight (8)  
7 hours per month during the second and third years of probation  
8 following the Division's approval of the community service  
9 program selected by respondent. Respondent shall provide a total  
10 of 300 hours of community service during the first three years of  
11 probation.

12 (6) OBEY ALL LAWS. Respondent shall obey all federal,  
13 state, and local laws, and all rules and regulations governing  
14 the practice of medicine in California. Respondent also shall  
15 remain in full compliance with any court ordered criminal  
16 probation, payments, and other orders.

17 (7) QUARTERLY REPORTS. Respondent shall submit  
18 quarterly declarations under penalty of perjury on forms provided  
19 by the Division or its designee, stating whether there has been  
20 compliance with all of the conditions of probation.

21 (8) PROBATION SURVEILLANCE PROGRAM COMPLIANCE.  
22 Respondent shall comply with the Division's probation  
23 surveillance program. Respondent shall, at all times, keep the  
24 Division and his probation surveillance monitor informed of his  
25 addresses of business and residence, both of which shall serve as  
26 respondent's addresses of record. Any changes of those addresses  
27 shall be immediately communicated in writing to the Division and

1 his probation surveillance monitor. Under no circumstances shall  
2 a post office box serve as an address of record.

3 Respondent shall also immediately inform the Division  
4 and his probation surveillance monitor, in writing, of any travel  
5 to any areas outside the jurisdiction of California which lasts  
6 or is contemplated to last, more than thirty (30) days.

7 (9) INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS  
8 DESIGNATED PHYSICIAN. Respondent shall appear in person for  
9 interviews with the Division, its designee or its designated  
10 physician upon request at various intervals and with reasonable  
11 notice.

12 (10) TOLLING FOR OUT-OF-STATE PRACTICE OR RESIDENCE OR  
13 IN-STATE NON-PRACTICE. In the event that respondent should leave  
14 California to reside or practice outside of this State or for any  
15 reason should stop practicing medicine in California, respondent  
16 shall notify the Division or its designee in writing within ten  
17 (10) days of the date of departure and return or the dates of  
18 non-practice within California. Non-practice is defined as any  
19 period of time exceeding thirty (30) days in which respondent is  
20 not engaging in any activities as defined in sections 2051 and  
21 2052 of the Business and Professions Code or such related  
22 statutes.

23 All time spent in an intensive training program  
24 approved by the Division or its designee shall be considered as  
25 time spent in the practice of medicine.

26 Periods of temporary or permanent residence or practice  
27 outside of California or of non-practice within California, as

1 defined in this condition, will not apply to the reduction of the  
2 probationary period.

3 (11) COST RECOVERY. Respondent is hereby ordered to  
4 reimburse the Division the sum of Two Thousand Five Hundred  
5 Dollars (\$2,500.00) for the costs of the investigation and  
6 prosecution of the above-entitled matter. Such amount shall be  
7 paid within a one (1) year period with quarterly payments as  
8 follows:

9 Within ninety (90) days from the effective date of the  
10 Division's Decision, respondent shall pay his first quarterly  
11 payment of \$625.00 to the Division. Thereafter, respondent shall  
12 pay to the Division the amount of \$625.00 each and every three  
13 months on the due date of each quarterly report as required under  
14 Probation Condition No. 7 of this Order until the total amount of  
15 \$2,500.00 is paid in full.

16 The payment of these costs by respondent is not tolled  
17 by his practice or residency outside of California. Failure by  
18 respondent to reimburse the Division for its investigation and  
19 prosecution costs according to this probation condition shall  
20 constitute a violation of probation, unless the Division agrees  
21 in writing to payment by a revised installment plan because of  
22 financial hardship.

23 The filing of bankruptcy by respondent shall not  
24 relieve respondent of his responsibility to reimburse the  
25 Division for its investigation and prosecution costs.

26 (12) PROBATION MONITORING COSTS. Respondent shall pay  
27 the costs associated with probation monitoring each and every

1 year of probation, which are currently set at Two Thousand Three  
2 Hundred Four Dollars (\$2,304.00), but may be adjusted on an  
3 annual basis. The probation monitoring costs shall be payable to  
4 the Division of Medical Quality and delivered to the designated  
5 probation surveillance monitor at the beginning of each calendar  
6 year. Failure by respondent to pay these costs within thirty  
7 (30) days of the due date shall constitute a violation of  
8 probation.

9 (13) **VIOLATION OF PROBATION.** If respondent violates  
10 probation in any respect, the Division, after giving respondent  
11 notice and the opportunity to be heard, may revoke probation and  
12 carry out the disciplinary order that was stayed.

13 If an accusation or petition to revoke probation is  
14 filed against respondent during probation, the Division shall  
15 have continuing jurisdiction until the matter is final, and the  
16 period of probation shall be extended until the matter is final.

17 No petition for modification or termination of  
18 probation or any reduction in the period for compliance with any  
19 of these probation conditions shall be considered while there is  
20 an accusation or petition to revoke probation pending against  
21 respondent.

22 (14) **LICENSE SURRENDER.** Following the effective date  
23 of the Division's Decision, if respondent ceases practicing due  
24 to retirement, health reasons or otherwise is unable to satisfy  
25 the terms and conditions of probation, respondent may voluntarily  
26 surrender his physician and surgeon's certificate to the Medical  
27 Board of California. The Division reserves the right to evaluate

1 respondent's request and to exercise its discretion in  
2 determining whether to grant the request, or to take any other  
3 action deemed appropriate and reasonable under the circumstances.  
4 Upon formal acceptance of the surrendered license, respondent  
5 will no longer be subject to the terms and conditions of  
6 probation.

7 (15) COMPLETION OF PROBATION. Upon successful  
8 completion of probation, respondent's physician and surgeon's  
9 certificate and physician assistant supervisor's approval shall  
10 be fully restored.

#### 11 CONTINGENCY PROVISION

12 This Stipulated Settlement and Disciplinary Order shall  
13 be subject to the approval of the Division. Respondent  
14 understands and agrees that the Division's staff and counsel for  
15 Complainant may communicate directly with the Division regarding  
16 this stipulation, without notice to or participation by  
17 respondent or his counsel. In the event that the Division does  
18 not adopt this Stipulated Settlement and Disciplinary Order as  
19 its Decision, this stipulation shall have no force or effect on  
20 any of the parties and shall be inadmissible in any legal action  
21 between the parties. The Division will not be disqualified from  
22 taking further action in this matter as a result of its  
23 consideration of this stipulation.

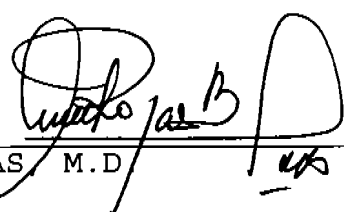
#### 24 ACCEPTANCE

25  
26 I, Augusto Rojas, M.D., have carefully read the above  
27 Stipulated Settlement and Disciplinary Order. I have fully

1 discussed the terms and conditions and other matters contained  
2 therein with my counsel. I understand the effect that this  
3 Stipulated Settlement and Disciplinary Order will have on my  
4 Physician and Surgeon's Certificate and Physician Assistant  
5 Supervisor's Approval.

6 I hereby freely, voluntarily, intelligently and  
7 knowingly enter into this Stipulated Settlement and Disciplinary  
8 Order and agree to be bound thereby.

9 DATED: 10/27/00.


10  
11  
12   
13 AUGUSTO ROJAS, M.D.  
Respondent

14 CONCURRENCE

15 We have fully discussed the terms and conditions and  
16 the other matters contained in the above Stipulated Settlement  
17 and Disciplinary Order with Respondent Augusto Rojas, M.D., and  
18 approve the form and content of such stipulation.

19 DATED: 10-27-2000.

20  
21   
22 GEORGE G. BRAUNSTEIN  
23 Attorney at Law

24  
25   
26 ROBERT M. SILVERMAN  
27 Attorney at Law

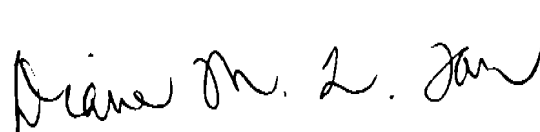
Attorneys for Respondent

1 **ENDORSEMENT**

2 The foregoing Stipulated Settlement and Disciplinary  
3 Order is hereby respectfully submitted for consideration by the  
4 Division of Medical Quality of the Medical Board of California.

5 DATED: November 26, 2000.

6 BILL LOCKYER, Attorney General  
7 of the State of California

8 

9 DIANE M. L. TAN  
10 Deputy Attorney General

11 Attorneys for Complainant  
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**EXHIBIT 1**



BILL LOCKYER, Attorney General  
of the State of California  
DIANE M. L. TAN (State Bar No. 86571)  
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FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO February 19 99  
BY Dicky Boone ASSOCIATE

Attorneys for Complainant

BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
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Against: )

**AUGUSTO ROJAS, M.D.** ) **ACCUSATION**  
13624 Hawthorne Boulevard, #201 )  
Hawthorne, California 90250 )  
Physician and Surgeon's )  
Certificate No. A 41262 )  
Physician Assistant Supervisor's )  
Approval No. SA 24462, )

Respondent. )

Complainant Ron Joseph, Executive Director of the  
Medical Board of California, as causes for disciplinary action,  
alleges as follows:

**PARTIES**

1. Complainant is the Executive Director of the  
Medical Board of California (hereinafter referred to as "the  
Board"). Complainant brings this Accusation solely in his  
official capacity as Executive Director of the Board.

2. On or about October 9, 1984, Physician and

1 Surgeon's Certificate No. A 41262 was issued by the Board to  
2 Augusto Rojas, M.D. (hereinafter referred to as "respondent").  
3 At all times relevant to the charges brought herein, this license  
4 has been valid. Unless such license is renewed, it will expire  
5 on April 30, 2000.

6 3. On or about June 1, 1995, respondent was issued  
7 Physician Assistant Supervisor's Approval No. SA 24462. At all  
8 times relevant to the charges brought herein, that approval to  
9 supervise physician assistants has been valid and has an  
10 expiration date of April 30, 1999.

#### 11 JURISDICTION

12 4. This Accusation is brought before the Division of  
13 Medical Quality (hereinafter referred to as "the Division") of  
14 the Medical Board of California, Department of Consumer Affairs,  
15 under the authority of the following sections of the Business and  
16 Professions Code (hereinafter referred to as "the Code"):

17 A. Section 2227, subdivision (a) of the Code  
18 provides that a licensee who is found guilty pursuant to the  
19 provisions of the Medical Practice Act (Bus. & Prof. Code, §  
20 2000 et seq.), may have his or her license revoked; have his  
21 or her right to practice suspended for a period not to  
22 exceed one year; be placed on probation and be required to  
23 pay the costs of probation monitoring; or have any other  
24 action taken in relation to discipline as the Division or an  
25 administrative law judge may deem proper.

26 B. Section 2234 of the Code provides that the  
27 Division shall take action against any licensee who is

1 charged with unprofessional conduct. That section further  
2 provides that "unprofessional conduct" includes, but is  
3 not limited to, the following:

4 "(a) Violating or attempting to violate,  
5 directly or indirectly, or assisting in or abetting the  
6 violation of, or conspiring to violate, any provision  
7 of this chapter.

8 "(b) Gross negligence.

9 "(c) Repeated negligent acts.

10 "(d) Incompetence.

11 "(e) The commission of any act involving  
12 dishonesty or corruption which is substantially related to  
13 the qualifications, functions, or duties of a physician and  
14 surgeon.

15 "(f) Any action or conduct which would have  
16 warranted the denial of a certificate. . . ."

17 C. Section 2236 of the Code provides, in  
18 pertinent part, the following:

19 "(a) The conviction of any offense substantially  
20 related to the qualifications, functions, or duties of a  
21 physician and surgeon constitutes unprofessional  
22 conduct within the meaning of this chapter. The record of  
23 conviction shall be conclusive evidence only of the fact  
24 that the conviction occurred.

25 . . .

26 "(c) . . . The division may inquire into the  
27 circumstances surrounding the commission of a crime in order

1 to fix the degree of discipline or to determine if the  
2 conviction is of an offense substantially related to the  
3 qualifications, functions, or duties of a physician and  
4 surgeon.

5 " (d) A plea or verdict of guilty or a conviction  
6 after a plea of nolo contendere is deemed to be a conviction  
7 within the meaning of this section and section 2236.1. The  
8 record of conviction shall be conclusive evidence of the  
9 fact that the conviction occurred."

10 D. Section 490 of the Code provides as  
11 follows:

12 "A board may suspend or revoke a license on  
13 the ground that the licensee has been convicted of a  
14 crime, if the crime is substantially related to the  
15 qualifications, functions, or duties of the business or  
16 profession for which the license was issued. A  
17 conviction within the meaning of this section means a  
18 plea or verdict of guilty or a conviction following a  
19 plea of nolo contendere. Any action which a board is  
20 permitted to take following the establishment of a  
21 conviction may be taken when the time for appeal has  
22 elapsed, or the judgment of conviction has been  
23 affirmed on appeal, or when an order granting probation  
24 is made suspending the imposition of sentence,  
25 irrespective of a subsequent order under the provisions  
26 of Section 1203.4 of the Penal Code."

1                   E.    Section 810, subdivision (a) of the Code<sup>1/</sup>  
2   provides that "[i]t shall constitute unprofessional conduct  
3   and grounds for disciplinary action, including suspension or  
4   revocation of a license or certificate, for a health care  
5   professional to do any of the following in connection with  
6   his professional activities:

7                   "(1)   Knowingly present or cause to be  
8   presented any false or fraudulent claim for the payment  
9   of a loss under a contract of insurance.

10                  "(2)   Knowingly prepare, make, or subscribe  
11   any writing, with intent to present or use the same, or  
12   to allow it to be presented or used in support of any  
13   such claim.

14                  Section 810 of the Code further provides the  
15   following:

16                  "(b) It shall constitute cause for revocation  
17   or suspension of a license or certificate for a health  
18   care professional to engage in any conduct prohibited  
19   under Section 1871.1 or 1871.4 of the Insurance Code.

20                  "(c) As used in this section, health care  
21   professional means any person licensed or certified  
22   pursuant to this division . . . ."

23  
24                  1. In 1997, the Legislature amended section 810 of the Code  
25   by making a change in gender reference in the introductory  
26   paragraph to subdivision (a), and substituting in paragraph (2),  
27   "false or fraudulent claim" for "such claim", and in subdivision  
  (b), substituting "Section 1871.4 of the Insurance Code or Section  
  550 of the Penal Code" for "Section 1871.1 or 1871.4 of the  
  Insurance Code." (Stats. 1997, c. 758, § 2.6.)

1           F.    Section 2261 of the Code provides that  
2    "[k]nowingly making or signing any certificate or other  
3    document directly or indirectly related to the practice of  
4    medicine or podiatry which falsely represents the existence  
5    or nonexistence of a state of facts, constitutes  
6    unprofessional conduct."

7           G.    Section 802.1 of the Code provides the  
8    following:

9           "(a)   A physician and surgeon shall report  
10   any of the following to the Medical Board of California  
11   in writing within 30 days:

12           "(1)   The bringing of an indictment or  
13   information charging a felony against the physician and  
14   surgeon.

15           "(2)   The conviction of the physician and  
16   surgeon, including any verdict of guilty, or plea of  
17   guilty or no contest, of any felony.

18           "(b)   Failure to make a report required by  
19   this section shall be a public offense punishable by a  
20   fine not to exceed five thousand dollars (\$5,000)."

21           H.    Section 118 of the Code provides, in  
22   pertinent part, as follows:

23           ". . .

24           "(b)   The suspension, expiration, or  
25   forfeiture by operation of law of a license issued by a  
26   board in the department, or its suspension, forfeiture,  
27   or cancellation by order of the board or by order of a

1 court of law, or its surrender without the written  
2 consent of the board, shall not, during any period in  
3 which it may be renewed, restored, reissued, or  
4 reinstated, deprive the board of its authority to  
5 institute or continue a disciplinary proceeding against  
6 the licensee upon any ground provided by law or to  
7 enter an order suspending or revoking the license or  
8 otherwise taking disciplinary action against the  
9 licensee on any such ground.

10 "(c) As used in this section, 'board'  
11 includes an individual who is authorized by any  
12 provision of this code to issue, suspend, or revoke a  
13 license, and 'license' includes 'certificate,'  
14 'registration,' and 'permit.'"

15 I. Section 125.3 of the Code provides, in  
16 pertinent part, that the Division may request the  
17 administrative law judge to direct any licensee found to  
18 have committed a violation or violations of the licensing  
19 act, to pay the Division a sum not to exceed the reasonable  
20 costs of the investigation and enforcement of the case.

21 **WELFARE AND INSTITUTIONS CODE SECTION 14124.12**

22 J. Section 14124.12 of the Welfare and  
23 Institutions Code provides the following:

24 "(a) Upon receipt of written notice from the  
25 Medical Board of California, the Osteopathic Medical Board  
26 of California, or the Board of Dental Examiners of  
27 California, that a licensee's license has been placed on

1 probation as a result of a disciplinary action, the  
2 department may not reimburse any Medi-Cal claim for the type  
3 of surgical service or invasive procedure that gave rise to  
4 the probation, including any dental surgery or invasive  
5 procedure, that was performed by the licensee on or after  
6 the effective date of probation and until the termination of  
7 all probationary terms and conditions or until the  
8 probationary period has ended, whichever occurs first. This  
9 section shall apply except in any case in which the relevant  
10 licensing board determines that compelling circumstances  
11 warrant the continued reimbursement during the probationary  
12 period of any Medi-Cal claim, including any claim for dental  
13 services, as so described. In such a case, the department  
14 shall continue to reimburse the licensee for all procedures,  
15 except for those invasive or surgical procedures for which  
16 the licensee was placed on probation.

17 "(b) The Medical Board of California, the  
18 Osteopathic Medical Board of California, and the Board  
19 of Dental Examiners of California, shall work in  
20 conjunction with the State Department of Health  
21 Services to provide all information that is necessary  
22 to implement this section. These boards and the  
23 department shall annually report to the Legislature by  
24 no later than March 1 that number of licensees of these  
25 boards, placed on probation during the immediately  
26 preceding calendar year, who are:

27 "(1) Not receiving Medi-Cal reimbursement



1 for certain surgical services or invasive procedures,  
2 including dental surgeries or invasive procedures, as a  
3 result of subdivision (a).

4 "(2) Continuing to receive Medi-Cal  
5 reimbursement for certain surgical or invasive  
6 procedures, including dental surgeries or invasive  
7 procedures, as a result of a determination of  
8 compelling circumstances made in accordance with  
9 subdivision (a).

10 "(c) This section shall become inoperative on  
11 July 1, 2003, and, as of January 1, 2004, is repealed,  
12 unless a later enacted statute that is enacted before  
13 January 1, 2004, deletes or extends the dates on which  
14 it becomes inoperative and is repealed."

15 **FIRST CAUSE FOR DISCIPLINE**

16 (Conviction of Crimes)

17 5. Respondent Augusto Rojas, M.D., is subject to  
18 disciplinary action for having been convicted of crimes which are  
19 substantially related to the qualifications, functions or duties  
20 of a physician and surgeon, in violation of sections 490, 2234,  
21 subdivision (a) and 2236 of the Code. The facts and  
22 circumstances regarding the conviction are as follows:

23 A. On or about September 5, 1997, an  
24 Information was filed in the matter of *United States of*  
25 *America v. Augusto Rojas*, Case No. CR S-97-463, in the  
26 United States District Court for the Eastern District  
27 of California, charging respondent with violations of

1 18 United States Code sections 1341 and 2 for mail  
2 fraud and aiding and abetting (Count One), and 26  
3 United States Code section 7206(1) for false statement  
4 on tax returns (Count Two).

5 B. On or about November 10, 1997,  
6 respondent was convicted pursuant to a plea of guilty  
7 to one count of mail fraud in violation of 18 U.S.C. §  
8 1341, and one count of false statement in a tax return  
9 in violation of 26 U.S.C. § 7206(1) as charged in the  
10 Information.

11 C. The conviction was based upon  
12 respondent's involvement in a Med-law fraudulent scheme  
13 operating in Southern California from about 1990  
14 through 1994. Respondent paid cash kickbacks to  
15 personal injury attorneys in return for the attorneys'  
16 referrals of personal injury clients for medical  
17 services. Respondent's medical bills formed a part of  
18 the settlement demand package, which would be mailed by  
19 the attorneys to insurers for settlement of the  
20 personal injury cases. As a result of respondent's  
21 actions, insurance companies and clients were defrauded  
22 of approximately \$69,000. For the tax years 1992 and  
23 1993, respondent understated his taxable income in his  
24 federal tax returns in the approximate amount of  
25 \$139,000.

26 D. On or about March 16, 1998, respondent  
27 was ordered by the Court to be committed to the custody

1 of the United States Bureau of Prisons to be imprisoned  
2 for 12 months on each of Count One and Count Two to run  
3 concurrently with each other. The Court recommended to  
4 the Bureau of Prisons that respondent's term be served  
5 in a community corrections center located in Southern  
6 California near respondent's residence.

7 Upon release from imprisonment, respondent  
8 was ordered by the Court to be on supervised release  
9 for a term of 36 months. The conditions of supervision  
10 included cooperating with the Internal Revenue Service  
11 in the determination of monies owed, not committing  
12 another federal, state or local crime, paying a fine of  
13 \$10,000 and a special assessment of \$100, and complying  
14 with other conditions.

15 **SECOND CAUSE FOR DISCIPLINE**

16 (False or Fraudulent Insurance Claims)

17 6. Respondent is subject to disciplinary action for  
18 engaging in unprofessional conduct in violation of sections 810  
19 and 2234 of the Code by having committed insurance fraud as  
20 alleged in Paragraph 5 of this Accusation, which is incorporated  
21 herein by reference.

22 **THIRD CAUSE FOR DISCIPLINE**

23 (Commission of Dishonest or Corrupt Acts)

24 7. Respondent is subject to disciplinary action  
25 for engaging in unprofessional conduct in violation of  
26 section 2234, subdivision (e) of the Code by having  
27 committed act or acts involving dishonesty or corruption which

1 are substantially related to the qualifications, functions,  
2 or duties of a physician and surgeon as alleged in  
3 Paragraph 5 of this Accusation, which is incorporated herein by  
4 reference.

5 **FOURTH CAUSE FOR DISCIPLINE**

6 (False Documents)

7 8. Respondent is subject to disciplinary action for  
8 engaging in unprofessional conduct in violation of sections 2234,  
9 subdivision (a) and 2261 of the Code by knowingly making or  
10 signing a certificate or other document directly or indirectly  
11 related to the practice of medicine which falsely represented the  
12 existence or nonexistence of a state of facts as alleged in  
13 Paragraph 5 of this Accusation, which is incorporated herein by  
14 reference.

15 **FIFTH CAUSE FOR DISCIPLINE**

16 (Failure to Report Information and Conviction)

17 9. Respondent is subject to disciplinary action for  
18 violating sections 802.1, subdivision (a), and 2234 of the Code.  
19 Respondent failed to report to the Board in writing within 30  
20 days the information filed on or about September 5, 1997, and the  
21 conviction for mail fraud and false statement in a tax return on  
22 or about November 10, 1997.

23 **PRAYER**

24 **WHEREFORE**, Complainant requests that a hearing be  
25 held in this matter and that following the hearing, the Division  
26 issue a decision:

27 1. Revoking or suspending Physician and Surgeon's

1 Certificate Number A 41262, heretofore issued to respondent  
2 Augusto Rojas, M.D.;

3 2. Revoking, suspending or denying approval of  
4 respondent's authority to supervise physician assistants pursuant  
5 to section 3527 of the Code;

6 3. Ordering respondent to pay the Division the  
7 reasonable costs of the investigation and enforcement of this  
8 case;

9 4. Ordering respondent to pay the Division the costs  
10 of probation monitoring in the event that he is placed on  
11 probation; and

12 5. Taking such other and further action as the  
13 Division deems necessary and proper to protect the public health,  
14 safety or welfare.

15 DATED: February 11, 1999

16  
17 

18 **RON JOSEPH**  
19 Executive Director  
20 Medical Board of California  
21 Department of Consumer Affairs  
22 State of California

23  
24  
25  
26  
27  
Complainant